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Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 56th meeting

Held at the Palais des Nations, Geneva, on Thursday, 22 September 2016, at 10 a.m.

Chair: Mr. Sadi

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Poland (continued) (E/C.12/POL/6; E/C.12/POL/Q/6 and Add.1; E/C.12/POL/CO/5)

1. *At the invitation of the Chair, the delegation of Poland took places at the Committee table.*

2. **Ms. Oklińska** (Poland) said that the amendments to the Trade Union Act had been drafted with a view to extending the right to join a trade union to all workers, regardless of the nature of their employment, particularly to those employed under civil-law contracts and self-employed workers, and providing for a protective mechanism for trade union members. It was true that the consultations on the new provisions had taken a long time, but it had been important to reach agreement with the social partners; the process was now close to completion. Following a ruling of the Constitutional Court, the provision of the Trade Union Act that stipulated that only employees could join trade unions was no longer in force. Consequently, persons who did not fall under the definition of an "employee" under the Labour Code could now join trade unions and bring cases before the courts to allow them to do so. According to statistics from 2014, some 1.6 million workers were trade union members, accounting for approximately 11 per cent of all workers. The highest proportion of union members was in the mining sector. Two thirds of trade unions represented the public sector, but now that non-employees could form trade unions, the number in the private sector was expected to increase.

3. **Mr. Zieleniecki** (Poland) said that there were two types of social protection: social insurance — with benefits financed by premiums based on the insured person's salary while they were working — and social provision — with benefits financed from the general budget. Social insurance was the dominant form, while social provision applied mainly to the uniformed professions and prosecutors and judges. There was also a special social insurance system for the agricultural sector, under which contributions covered less than 10 per cent of the cost of pension benefits, with the remainder financed from the State budget. The Government was taking measures to standardize the principles underpinning the three systems. In 2013, the criteria for pension eligibility for the uniformed services and armed forces had been changed in respect of age (minimum 55 years) and length of service (minimum 25 years), bringing them into line with those applicable in the social insurance system. The Council of Ministers had very recently decided to implement a reform concerning the amount of retirement pension and disability pension benefits in the common social insurance system and the social insurance system for agricultural workers.

4. In 2015, the minimum subsistence level for a single-person household had been 518 zlotys (Zl), while the minimum social security benefit had been Zl 1,080. At the end of 2015, the average pension benefit had been Zl 2,050 and the minimum Zl 882. In view of the problem of poverty among pensioners on the lowest levels of retirement and disability pension benefits, as of 1 March 2017, the minimum amounts would be significantly increased under both the common and the agricultural workers' social insurance systems, with the new minimum amount set at Zl 1,000.

5. **Ms. Sarzalska** (Poland) said that those at greatest risk of poverty in the State party were generally families with four children or more, and, according to figures from 2014, there were 1.5 million children at risk of relative poverty and 700,000 at risk of absolute poverty. Poverty rates had decreased among all groups in Poland, and child poverty levels

were similar to the European Union average. Families with children were entitled to support from the State under the general social assistance system and the family benefit system, in force since 2006. A new allowance paid on the birth of a child had been introduced the previous year, giving parents Zl 1,000 for the first child. An allowance of Zl 1,000 for the first year after a child's birth was also awarded to parents who were not entitled to maternity or paternity leave because they were not covered by health insurance. Special support was available to families with children with disabilities or dependent adults, particularly for persons who had had to give up work to care for a family member. The system of family benefits was based on a maximum income threshold, with support provided to families on the lowest incomes. The threshold had been increased by 20 per cent since 2012 and would rise again in October 2017. Under a new programme introduced in April 2016, every family received an allowance of Zl 500 for second and subsequent children, regardless of income; for the first child, there was a maximum income threshold of Zl 800 if the child did not have a disability and Zl 1,200 if it did. It was estimated that some 2.7 million families were receiving benefits under the new programme, which was forecast to reduce poverty levels among children up to the age of 17 from 22.3 per cent to 10.5 percent. In the past, persons whose revenue exceeded the maximum income threshold by even 1 zloty had lost their entitlement to family benefits entirely. Under the new Zloty for Zloty programme, if a family's revenue exceeded the income threshold, their benefits were simply reduced by the same amount by which the limit had been exceeded. As a result, an additional 160,000 families were now receiving family benefits. Work was under way on developing a comprehensive strategy for responsible development, which would encompass family support. Once the strategy had been adopted, a new programme for families with children would be developed.

6. Strict regulations had hindered the establishment of childcare facilities for children under the age of 3 until 2011, when new legislation had introduced provision for day-care assistants, who could take care of up to five children, and nannies. A new programme, worth Zl 151 million annually, was also being implemented to help municipalities fund childcare facilities. However, the proportion of children under the age of 3 in preschool care had only risen from 2.6 per cent in 2010 to 8.1 per cent in 2015, because of the high fees. A co-financing scheme had been introduced, allowing parents to pay reduced fees. According to a survey conducted among parents in 2015, 100 per cent of respondents in urban areas, compared to only 60 per cent in rural areas, had stated that they would like to enrol their children under the age of 3 in day care.

7. **Ms. Wasilewska** (Poland) said that the labour market had improved considerably in recent years, thanks to measures put in place by the Ministry of Labour and Social Policy. Unemployment had been decreasing significantly since 2014 and that trend had continued into the early months of 2016. Extra support had been made available for young unemployed persons, such as by imposing a requirement upon employment centres to find job openings for them within a briefer period of time. A plan had been launched to create 100,000 new jobs over three years, giving young people the possibility to work in full-time employment for a period of 24 months, during the first 12 of which their employer's social security contributions would be partly reimbursed. Training vouchers and vouchers to assist with moving to a new place of residence had been introduced to encourage job market mobility and skills acquisition among the young. As part of plans to facilitate the return to the job market for workers who had had children, the Government provided grants to employers for the creation of teleworking posts.

8. Other programmes, at both the national and the regional level, aimed to improve access to the job market for young persons with disabilities and to help young persons more generally to acquire professional skills and become self-employed. Measures in that regard were partly financed in the context of the European Social Fund. Mechanisms existed whereby employers were able to direct professional and vocational training, including that

of young people, in accordance with the needs of the labour market. Such mechanisms were regulated by the Act on Promoting Employment and Labour Market Institutions.

9. **Ms. Matysiak** (Poland) said that the approach to the issue of domestic violence in her country was an interdisciplinary one and task forces had been set up where representatives from various ministries and departments, the police, prosecutors and NGOs worked together to combat the phenomenon. The focus was not just on victims but also on perpetrators, as well as on prevention. Poland had launched its efforts in that regard 11 years previously with the 2005 Act on Counteracting Domestic Violence. The Act had been amended in 2010 with the introduction of the Blue Card procedure, which covered both direct intervention and the provision of assistance to victims of domestic violence. In fact, under the amendments, victims were able to obtain free medical certificates, were offered counselling, including psychological and legal counselling, and were entitled to free accommodation in shelters. At the same time, perpetrators were banned from any form of contact with victims and were required to leave the family home.

10. Poland currently had 777 centres providing aid and support to victims of domestic violence. In addition, there were a number of other structures, including 485 consultation points, 220 crisis intervention centres and 13 homes for pregnant women and mothers with young children. Two new specialized centres were due to open in the period 2018-2019. A national programme to combat domestic violence, launched in 2006, had been extended for a further six years in 2014. It contained provision for a national hotline to report cases of domestic and gender-based violence which, unlike previous hotlines, would be free of charge and would operate 24 hours a day. The programme included therapy for perpetrators, 9,000 of whom were treated each year, and preventive measures such as awareness-raising campaigns on the dangers of domestic violence. Reports on domestic violence in Poland were available on the website of the Ministry of Labour and Social Policy.

11. **Ms. Mende** (Poland) said that it was untrue that domestic violence was not criminalized in Poland. Although the Criminal Code did not refer specifically to domestic violence, it penalized all forms of violence, including any kind of injury, abuse or harassment perpetrated within the home. Law enforcement officials, from both the police and the judiciary, received specific training in that regard. Moreover, under the Code, police had the power to apprehend a person against whom there was a reasonable suspicion that he or she had acted violently against someone within the same household. Police and prosecutors who worked on cases involving domestic violence had to follow specific guidelines. Under those guidelines, prosecutors conducting criminal proceedings were required to have a requisite amount of experience, the Blue Card procedure had to be adequately documented and victims had to be informed of their rights under the Act on Counteracting Domestic Violence. As of 2015, police reports on any incident, however trivial, had to indicate whether domestic violence had been involved. That helped not only in compiling statistics but also in raising awareness among law enforcement officials.

12. The approach to domestic violence in national law thus enabled the authorities to implement a broad spectrum of remedies. In fact, it provided more support and protection to victims than if the offence were more narrowly defined, thanks also to the Blue Card procedure, which, inter alia, required police to ensure the safety of a victim of domestic violence by making regular visits to the home. The authorities in Poland tended not to opt for mediation in cases of domestic violence because one essential condition for effective mediation was equality between the parties and that was often lacking in cases of domestic abuse.

13. **Ms. Naszczyńska** (Poland) said that, contrary to what had been stated during the meeting and to the Committee's concluding observations from 2010 (E/C.12/POL/CO/5), marital rape was penalized in Polish law. The offence of rape, regardless of the victim's relationship to the perpetrator, had been on the statute books for many years. Legislators in

Poland did not consider marital rape to be a separate category of offence and any victim of rape could seek redress under article 197 of the Criminal Code. The requirement under which a victim of marital rape had to apply for proceedings to be launched had been abolished in 2013, and since then such cases had been prosecuted ex officio by the State. In other words, as soon as the offence was reported by the victim or by a third party, State law enforcement agencies and prosecutors were legally obliged to take action. The change had been made in the interests of victims who, through shame or fear, might choose not to pursue legal redress through the courts. Such cases were, of course, often very difficult and delicate because the justice system had to gather evidence and verify the status of the victim while at the same time protecting the rights of accused and accuser alike. If a case of marital rape came before the courts it was examined like any other criminal case, although there were mechanisms in place to protect the privacy of the victim during the proceedings. If a guilty verdict was reached, the judge, when passing sentence, had to take account of the bond between perpetuator and victim, and a marital relationship was considered to be an aggravating factor.

14. **Mr. Uprimny** asked what steps were being taken to increase the availability of opioid replacement therapies and clean syringe exchange programmes for heroin users. Noting that, in the area of substance abuse, harm reduction strategies were hindered by a policy of penalizing individuals for possessing small amounts of drugs, he asked whether the State party would consider amending that policy.

15. **Ms. Shin**, noting that the State party planned to introduce a free hotline to receive complaints of domestic violence, asked whether it would consider providing an interpretation service so that non-Polish speakers could use the hotline. Owing to the prevalence of patriarchal attitudes, marital rape was unlikely to be prosecuted unless a specific provision was made to criminalize it in the Criminal Code. For that reason, the State party should consider adopting such a provision.

16. **Mr. Abdel-Moneim**, noting that the proportion of gross domestic product allocated to the implementation of the Covenant appeared to have fallen between 2010 and 2014, asked whether the Government was fulfilling the requirement to progressively implement the Covenant or whether it considered that the rights enshrined in it were now sufficiently implemented and protected.

17. **The Chair** said that, in accordance with the jurisprudence of the Committee, domestic violence and marital rape must be explicitly criminalized by specific legal provisions.

18. **Mr. Zablocki** said that steps had been taken to reduce waiting lists for medical services. In particular, cases in which a patient had been included on more than one list had now been eliminated. Plans were being made to carry out a comprehensive reform of the health-care system in Poland. The current insurance-based system would be replaced by a budget-based system; a network of local, regional and provincial hospitals would be established; spending on health care would be increased to 6 per cent of gross domestic product by 2025; health-care teams comprising a doctor, a nurse, a school nurse and a midwife would be set up; motivational programmes focusing on preventive health would be carried out; and the various health bodies and institutions that currently existed would be combined into a single office of public health.

19. The national health-care programme for 2016-2020 had recently been implemented with the aim of increasing citizens' quality of life and reducing disparities in access to health care. Its operational objectives were: to improve diets and exercise regimes; to tackle substance abuse and behavioural addictions; to prevent mental health problems and improve the mental health of the general public; to reduce health risks caused by physical, chemical and biological agents at work, at home, outdoors and at school; to promote

healthy ageing; and to improve reproductive health. Foreigners who resided in Poland and were covered by health insurance had access to State-funded health care. Illegal immigrants or foreigners with no health insurance were also provided with medical care if they suffered a sudden illness or if their lives were at risk.

20. The Act on Family Planning, Human Fetus Protection and Conditions of Permissible Abortion enabled individuals to take decisions on whether to have children and obliged the State to help people make such decisions. Local government authorities were obliged to provide materials that would raise awareness of reproductive issues. According to the Polish Gynaecological Society, the contraceptive methods that were available included periodic abstinence, intrauterine devices, condoms and hormonal tablets. Legislation was being amended in order to protect the rights of doctors who had a conscientious objection to abortion and to provide patients with the services to which they were entitled. The Act provided for abortion to be carried out by a doctor only when the pregnancy posed a threat to the health or life of a pregnant woman, when prenatal tests indicated that the fetus was highly likely to suffer severe, irreversible damage or have a disease that was a threat to life, or when there was a justified suspicion that the pregnancy had been the outcome of an unlawful act. The number of legal abortions had risen steadily from 159 in 2002 to 1,040 in 2015.

21. Citizens were able to submit bills to parliament within the framework of a civic initiative, as had been the case with the civic bill related to the anti-abortion law, if they managed to collect at least 150,000 signatures of citizens entitled to vote. Any such bill would be subject to parliamentary evaluation.

22. Under the provisions of the Family and Guardianship Code, children under the age of 13 were not considered able to take decisions concerning contraception or preventive care during pregnancy. However, patients aged 16 or older had the right to approve the care that they received. Under national law, women and girls had the right to access health-care services in the areas of obstetrics and gynaecology. According to a tribunal decision of October 2011, the current law was in line with the Polish Constitution and the Convention on the Rights of the Child.

23. The Ministry of Health had issued a regulation addressing obesity among children by restricting the foods that could be sold in educational establishments. The first operational objective of the national health plan for 2016-2020 was to improve diet and exercise regimes and to reduce obesity and premature deaths from non-communicable diseases. Children's physical development was evaluated by a series of tests and doctors were expected to identify the reasons why children had become obese. Although no steps had yet been taken to increase value added tax on fast food, the proposal would be considered with a view to its being implemented.

24. Women who wished to breastfeed their children were supported by legislation that enabled them to take paid maternity leave and paid breaks after they had returned to work. Pregnant women were referred to specialist nurses who visited them at home and advised them on various matters related to childcare, including breastfeeding. However, questionnaires issued by the Ministry of Health showed that, although 70 per cent of babies were breastfed during the first month of life, more than half of new mothers stopped breastfeeding exclusively before the child was 6 months old. The Ministry of Health aimed to reverse that trend.

25. **Ms. Skórka** said that local authorities provided financial support for pupils from low-income families and those whose family situations were adversely affected by unemployment, disability, long-term illness or addiction to alcohol and drugs. All pupils, regardless of their ethnicity or background, were eligible to apply for scholarships. Pupils with disabilities and those living in remote areas were provided with free transport by local

authorities. As of 2006, pupils who attended small schools had received additional support and extra funds had been made available to such pupils in 2016. Additional funding would also be provided to preschool children in 2017. In addition, a new national programme would co-fund the purchasing of schoolbooks and educational materials for children with an intellectual or physical disability. Braille versions of schoolbooks had been made available to children with visual disabilities and, in 2015, schoolbooks adapted to the needs of deaf pupils had also been made available.

26. Pupils with special educational needs received specific care in accordance with the nature of their disability and the type of school that they attended. Secondary-school pupils with disabilities were also able to take examinations adapted to their needs. Following changes in the provision of psychopedagogical support, the educational needs of Roma children could be individually addressed. Juvenile delinquents held in penitentiary units were able to receive vocational training and could participate in a range of educational and voluntary programmes. Adults could receive education at the primary and secondary levels and could also benefit from vocational training and training in general skills. The vocational training system was complemented by a system of external examinations offered at various levels.

27. **Ms. Sarzalska** (Poland) said that, since December 2015, the Ministry of Agriculture and Rural Development had organized adult vocational courses and training for farmers in areas including accountancy and farm management. While article 70 of the Constitution stipulated that higher education should be free of charge, payment was required for foreign language courses, and evening and part-time studies. University administrations had the power to set payment rules and grant exemptions. The Government provided financial support to PhD students so as to ensure equality of opportunities for students with disabilities and those on low incomes. It also funded housing for students and their spouses and children to enable them to live close to their place of study, with those most in need being given priority in the allocation of accommodation and free meals. Students with a legally certified disability were entitled to a non-means-tested allowance. The Ministry of Education had the power to cancel the repayment of student loans if recipients were in financial difficulty.

28. New provisions in the amended Higher Education Act would allow better access to education for students over the age of 25, thus helping them to be better prepared to enter the labour market. A joint initiative by the Ministry of Education and the Ministry of Labour and Social Policy had allocated Zl 11 million to establish kindergartens in universities to enable parents to study, with 1,436 day-care places created in 2015. The authorities had also instituted improvements in the quality of higher education, including the use of innovative learning methods and the provision of funding for three-month practical traineeships to prepare students for the world of work. Since June 2015, such traineeships had been made available in more than 1,500 entities.

29. **Mr. Jaros** (Poland), noting that Poland had initiated the Convention on the Rights of the Child, said that the country applied some of the highest standards in the world in the area of children's rights. The use of corporal punishment against children was banned under article 40 of the Constitution and article 96 of the Family and Guardianship Code, while the Criminal Code provided for sanctions to be applied to the offence. The family courts were entitled to suspend or remove the parental powers of persons found to have inflicted corporal punishment on their child. The Ministry of Justice ran regular public awareness campaigns to tackle physical and mental violence towards children. The Government had created the Office of the Ombudsman for Children, which could make applications to the Supreme Administrative Court and the Constitutional Tribunal and had launched a national campaign to encourage people to treat children as individual human beings with inalienable rights; that had culminated in the adoption of a declaration on the rights of children. The

twelfth national conference on the provision of assistance for child victims of crime had been held in October 2015.

30. **Mr. Kończyk** (Poland) said that the National Action Plan to combat trafficking in human beings for the period 2016-2018 addressed issues including the early identification of victims, the prosecution of offences related to human trafficking, and the provision of operational and procedural manuals to assist law enforcement agencies working on the problem. Victims of human trafficking were entitled to compensation, and were exempt from prosecution for entering Poland illegally if they had done so as a consequence of being trafficked. The police operated a hotline and e-mail facility through which members of the public could report suspected cases of trafficking. In 2015, 61 calls and 130 e-mails had been received. The European Union had funded another e-mail system for the reporting of suspected cases of sex tourism, the Don't Look Away initiative. Internal regulations governed the prevention and prosecution of human trafficking cases.

31. Foreign victims of human trafficking were protected by special protocols, such as a three-month window during which they could decide whether or not they wished to cooperate with law enforcement agencies. Since 2009, the National Consulting and Intervention Centre for Victims of Human Trafficking had provided comprehensive support for Polish and foreign victims and witnesses, with services including the provision of legal, psychological and medical assistance. Regional teams had also been formed to tackle human trafficking. The police academies ran training sessions every two weeks on how to deal with suspected cases of human trafficking and how to assist victims. Between October 2015 and March 2016, prosecutors and judges throughout the country had also attended training courses on the issue.

32. **Mr. Zieleniecki** (Poland) said that the Government would take into account the opinions of the Committee members when shaping future policies. Responses would be provided in writing to those questions which had not been answered due to lack of time, including those on the issue of housing.

The meeting rose at 12.55 p.m.